IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 24796 of 2003

Between:

Kolla Subba Rao, S/o Ramanaiah, Hindu,
R/o. Nagulapalem Village Parchur Mandal, Prakasam District.

..... PETITIONER

AND

1.The Assistant Commissioner, Endowment Department, Ongole
Prakasam District.
2.Nagulapalem Ura Tank, Rep. by its Chairman of the Trust

Board, Sri Kolla Sriramulu @ Masthan Rao, S/o. Veeraiah, 67

years R/o. Nagulapalem, Parchur Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ or order or Direction more particularly one in the nature of Writ of Mandamus, declaring the notice of eviction Dated: 15-10-2003 issued by the 2nd respondent on the basis of the proceedings of the 1st respondent in RC.No.A2/4748/2003, Dated:1-10-2003 as illegal and arbitrary.

Counsel for the Petitioner: SMT.VIJAYALAKSHMI PALADUGU

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the respondent No.2: Not appeared

The Court made the following:

ORDER:

Heard both sides. At their request, the main Writ Petition itself is taken up for disposal.

The petitioner claims to be a lessee and also an auction purchaser in the auction conducted on 22.06.2003 and having been the highest bidder in the said auction put in possession as such filed this Writ Petition, *inter-alia* seeking writ of mandamus, declaring the impugned notice of eviction dated 15.10.2003, as illegal.

The case of the petitioner is that he has been in possession of the property in question as a tenant and having been highest bidder in the said auction and having paid the entire amount, he cannot be evicted nor the auction can be set aside. Therefore, it is stated that the action of the 2nd respondent is illegal.

The respondent No.1 filed counter-affidavit stating that the lease is for one year and subsequently, auction was conducted wherein the petitioner was the highest bidder for one year. Though he was the highest bidder however, in view of the allegations that some irregularities occurred in conducting the auction, the same was cancelled as per orders dated.1.10.2003 and consequently, the present notice has been given seeking eviction of the petitioner and in the circumstances, the petitioner is not entitled for any indulgence under Article 226 of the Constitution of

India.

Considering the submissions made on both sides and also on perusal of the material on record, it is seen that admittedly, the petitioner has participated in the auction and he became highest bidder therefore, his right as claimed no longer remain and he became only an auction purchaser. The said auction was ultimately cancelled as per orders dated 1.10.2003 on certain reasons. These orders of cancellation of auction are neither challenged at any point of time nor even in this Writ Petition. The petitioner only seeks to challenge the eviction orders issued consequent thereto. As long as the said orders dated 1.10.2003 canceling the auction are not set aside, the petitioner cannot make any claim nor does have any right or whatsoever in nature in the court below. In the absence of any such challenge against the orders dated 1.10.2003, the petitioner cannot seek the remedy under Article 226 of the Constitution of India. Hence, I do not find any merits in this Writ Petition.

The writ Petition is lack of merits and accordingly, it is dismissed. No order as to costs.

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(B.PRAKASH RAO,J)

Bss/Skmr

To

1.The Assistant Commissioner, Endowment Department, Ongole
Prakasam District.
2.2CCs to G.P. for Endowments, High Court Buildings, Hyderabad (OUT)

3.2CD copies

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